

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 4, 2005

D044046 Bachmann v. Rogers III et al.

The January 2004 order denying Calgary's motion to enforce the judgment lien against respondents is affirmed. Respondents shall recover their costs on appeal. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D044310 DePhillips v. Hale

That portion of the order finding Hale's 2003 pension contribution to be nontaxable income is reversed and the matter is remanded for a recalculation of support consistent with this opinion. In all other respects, the order is affirmed. The parties are to bear their own costs on appeal. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D043944 People v. Jennings

The order of the trial court is reversed, and the case is remanded with directions to the trial court to modify the amount of Jennings's restitution obligation. The trial court shall make a finding as to what portion of the \$15,750 allocated to medical expenses went toward attorney fees. The trial court shall offset the restitution obligation by an amount equal to \$15,750, less the amount determined to have been used to pay attorney fees. CERTIFIED FOR PUBLICATION. Aaron, J.; I concur: McIntyre, J., I dissent: Benke, Acting P.J.

D046014 People v. Tewolde

The appeal filed on March 7, 2005, is from a non-appealable order. The appeal is dismissed.

D043448 Johnson et al. v. City of San Diego et al.

The petition for rehearing is denied. The requests for publication of the opinion are denied. It is ordered that the opinion filed on March 4, 2005, be modified. There is no change in judgment.

D044598 Thornton et al. v. Career Training Center Inc., et al.

The order is affirmed and remanded with directions. The trial court is directed to grant judgment on the pleadings on the complaint's UCL cause of action (third), and to allow the individual plaintiffs leave to amend the complaint to comply with Proposition 64. The parties are to bear their own costs on appeal. CERTIFIED FOR PUBLICATION McConnell, P.J.; We Concur: Aaron, J., Irion, J.

D044047 Worth v. Continental Airlines, Inc.

The judgment is reversed and the matter is remanded with directions that the trial court vacate its order granting Continental's motion for summary judgment and enter a new order denying that motion. Worth shall recover her costs on appeal. McDonald, J.; We Concur: Benke, Acting P.J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 5, 2005

D046143 People v. Cole

The notice of appeal filed on March 24, 2005, is from a non-appealable order. The appeal is dismissed.

D046036 Rygiel v. Medical Board of California

The appellant having failed to timely pay the filing fee, the appeal is DISMISSED. (Cal. Rules of Court, rule 1(c)(5)).

D043663 Cannon Pacific Services v. California Unemployment Insurance Appeals Board et al./Salanoa

The judgment is affirmed. The Board is awarded its costs on appeal. McIntyre, J.;
We Concur: Haller, Acting P.J., McDonald, J.

D046121 Brown v. Superior Court of San Diego County/People

The petition is denied.

D044769 People v. Nessel

The judgment is modified by striking the \$600 restitution fine and reducing the parole revocation fine to \$200. As so modified, the judgment is affirmed. The \$200 restitution fine remains in force. The trial court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections. Nares, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

D043697 Shirk v. Vista Unified School District

The judgment of dismissal is reversed with directions to overrule the demurrer. Costs on appeal are awarded to appellant. CERTIFIED FOR PUBLICATION Huffman, J.;
We Concur: Benke, Acting P.J., McIntyre, J.

D045288 Canam Properties, LLC et al. v. Micheli

D045786 Canam Properties, LLC et al. v. Micheli

The stipulation to consolidate the above-entitled appeals is accepted. All documents will be filed under D045288.

D045952 In re Martin on Habeas Corpus

The petition is denied.

D046155 Brown v. Superior Court of San Diego County/Hirsch

The petition is denied.

D044260 People v. Smith

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 6, 2005

D045005 People v. Almubarak

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McDonald, J.

D043312 People v. Taylor

The portion of the judgment imposing a \$500 restitution fine is ordered stricken. As modified, the judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Haller, J.

D044606 ACTT Inc., et al. v. Famous Trails et al.

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear own costs on appeal.

D044137 People v. Raquel S., a Minor

The judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J., McDonald, J.

D039841 People v. Rountree

D044957 In re Rountree on Habeas Corpus

(consolidated) The petition for rehearing is denied.

D043402 Chapman v. Trustees of the California State University

The order granting the new trial motion is reversed and the court is ordered to reinstate the judgment in favor of CSU. Having rejected Chapman's claim on cross-appeal, the order to reinstate the judgment in favor of CSU stands. O'Rourke, J.; We Concur: Haller, Acting P.J., Irion, J.

D043198 People v. Rodriguez

The judgment is affirmed. O'Rourke, J.; We Concur: McConnell, P.J., Nares, J.

D046020 Platypus Wear Inc., et al. v. Cahill et al.

Pursuant to California Rules of Court, rule 8, the appeal filed on March 3, 2005, is dismissed as to appellant Laurens Offner only, for Laurens Offner's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a), and for failure to timely pay the filing fee (Cal. Rules of Court, rule 1(c)(5)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 7, 2005

D042936 Chapman v. Trustees of the California State University

The judgment is affirmed. Each party is to bear its costs on appeal. O'Rourke, J.; We Concur:
Haller, Acting P.J., Irion, J.

D045990 In re Malvia on Habeas Corpus

The petition is denied.

D046019 Xenogen Corp. v. Superior Court of San Diego County/Anticancer, Inc.

The petition is denied.

D045871 In re Jiminez on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 8, 2005

D044221 Jan v. Chaikind

Upon written stipulation filed by the parties, the appeal is dismissed.

D043776 Bisnar & Chase, LLP v. Balascio et al

The judgment is modified to increase the Balascios' award to \$26,225.99 and to decrease Greene's award to \$40,545.81. As so modified, the judgment is affirmed. The Balascios' to pay Medina's costs on appeal. As between the Balascios and Greene, each party to bear their own costs on appeal. Haller, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

D044487 People v. Mai

The conviction of unlawfully taking and driving a vehicle is affirmed. The conviction of receiving a stolen vehicle is reversed and remanded. If on remand the People choose not to retry Mai on the receiving stolen property charge, the receiving stolen property charge shall be dismissed. O'Rourke, J.; We Concur: McConnell, P.J., Haller, J.

D045179 County of San Diego v. Stone, Jr.

The child support order, the order denying Stone's motion for reconsideration, the order denying his request for waiver of court fees and costs, the wage withholding order, and the judgment are affirmed. Nares, J.; We Concur: Benke, Acting P.J., Aaron, J.

D044953 People v. Smith

The judgment is affirmed. McIntyre, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Gilbert Nares
Clerk: D. Moore

D045099 Adoption of Kalani P.

Cause called on merits. Christopher R. Booth, Esq. argued for appellant. Judith E. Klein, Esq. argued for respondent. Ms. Klein also appeared in oral argument for minor's counsel. Cause submitted.

D045201 In re Tarenisha W. et al., Juveniles

Cause called on merits. Christopher R. Booth, Esq. argued for appellant. Patrice Plattner-Grainger, Deputy County Counsel argued for respondent. Mr. Booth replied. Cause submitted.

Court recessed at 9:37 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and James McIntyre

D045295 In re Idanya M. et al., Juveniles

Cause called on merits. Cheryl Edward Tannenberg, Esq. argued for appellant. Katherine Bird, Deputy County Counsel argued for respondent. Andrea St. Julian, Esq. argued for minor. Ms. Tannenberg replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
April 8, 2005 (Continued)

Court recessed at 10:05 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Richard Huffman

D044087 King v. Tri-City Medical Center

Cause called on merits. William Nathaniel Woodson, Esq. argued for appellant. Gregory W. Pollack, Esq. argued for respondent. Mr. Woodson replied. Cause submitted.

Court recessed at 10:19 a.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron

D044469 Rodriguez v. McCabe School District

Cause called on merits. Kenneth Baisch, Esq. argued for appellant. Gil Abed, Esq. argued for respondent. Mr. Baisch replied. Cause submitted.

Court recessed at 10:44 a.m. until Wednesday, April 13, 2005 at 9 a.m.

D043370 Golden v. Lasher

The opinion filed March 21, 2005 is modified as follows: (see order). The petition for rehearing is denied. There is no change in judgment.

D046160 The Harbor Drive Venture et al. v. Superior Court of San Diego County/The One Harbor Drive Homeowners Association et al.

The petition is denied.

D044686 People v. Russell

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Nares, J.

D042797 Viejas Group of the Capitan Grande Band of Mission Indians v. Pinto et al.

The Court has read and considered the Stipulation and Request for Dismissal filed on April 8, 2005. This Court's order dated March 9, 2005, placing the above-entitled case on calendar for Wednesday, April 13, 2005, at 1:30 p.m. is vacated. Upon the written stipulation filed this date by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issued immediately (Cal. Rules of Court, rule 20(c)(2)). Each party to bear its own costs on appeal.

D046169 Anderson v. Superior Court of San Diego County/People

The petition is denied.